FF-605

IN FACTFINDING PROCEEDINGS PURSUANT TO

GOVERNMENT CODE §§ 3548.1 - 3548.3

Proceedings between:	)	
	)	
SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT,	)	
	)	REPORT OF THE FACTFINDING PANEL
Employer,	)	
	)	
and	)	PERB No. LA-IM-3218-E
	)	
CUESTA COLLEGE CLASSIFIED UNITED EMPLOYEES, CFT, AFT,	)	
	)	
Exclusive Representative.	)	

Factfinding Panel:

Frank Silver, Arbitrator - Chairperson
Terry Elverum, Field Representative, California Federation of Teachers - Union-appointed Member
Robert Sammis, Vice President, Human Resources, Santa Monica College - District-appointed Member

Union Advocates: Tom Tyner,, Field Representative, CFT; Patty Cox, Research Specialist, CFT; Ilene French, CCCUE President

District Advocates: Alan Atlas, Atkins, Andelson, Loya, Ruud & Romo, Cerritos, CA; Marie Rosenwasser, President, SLOCCCD; Gil Stork, Vice President, Student Services; Ed Maduli, Vice President, Administrative Services; Burma Workman, Director, Human Resources

INTRODUCTION

The SAN LUIS OBISPO COMMUNITY COLLEGE DISTRICT and the CUESTA COLLEGE CLASSIFIED UNITED EMPLOYEES met in six negotiating sessions between June 26 and December 11, 2003 pursuant to the re-opening provision in their 2001-2004 collective bargaining agreement. Impasse was declared on or about January 26, 2004. The parties were unable to reach agreement in mediation, and subsequently reached agreement for the appointment of the undersigned chairperson of the factfinding panel pursuant to Government Code §§ 3548. l(b) and 3548.3(c).

A factfinding hearing was held on June 25, 2004 in the District's administrative offices. At the hearing the parties were afforded the opportunity to introduce relevant data and exhibits and to present oral testimony. The factfinding panel met in executive session following the hearing.

In arriving at its findings and recommendations, the panel has weighed and considered the criteria set forth in Government Code § 3548.2. The issues submitted to factfinding were: (1) district contributions to the fringe benefit cap for full and part time employees; (2) salary; and (3) implementation of bench mark salary survey adjustments.

FACTS

A. Final positions.

On December 11, 2003, the District presented the following proposal:

Salary

1. Step (annual and longevity) increases retroactive to July 1, 2003 (at a cost of $152,875 annually) with agreement on contingency language to be incorporated into the Collective Bargaining agreement, effective July 2004.

Concept: Effective July 1, 2004, payment of annual step (including longevity) increases contingent upon available new COLA funds received by the District.

2. Implementation of benchmark salary survey adjustments effective January 1, 2004 at a 2003-04 cost of $20,500, and a subsequent annual cost of $41,000.

Fringe Benefits:

No change in $6,359 benefit.

Although agreement was not reached on this proposal, the District subsequently implemented step and longevity payments for classified employees, retroactive to July 1, 2003. The District's position is that it is unable to provide a general salary increase.

The Union's position in factfinding is as follows:

1. Salary

District shall provide a *2%* salary increase for classified employees for 2003-2004.

District shall complete implementation of the reclassification study.

2. Benefits

District shall raise the benefit cap from $6,359/year to $7,842 per year for all employees with family or employee plus one coverage. The cap on employees with single coverage shall remain at $6,359/year.

B. The District's financial condition.

Since the passage of Proposition 98 in 1988, community colleges statewide have rarely received the level of State funding determined by the Legislature to be appropriate in implementing Proposition 98. In addition, the District's base revenue limit is below the statewide average for community colleges, leaving the District short several thousands of dollars each year and causing additional financial burdens.

In 2003-04, the State budget provided no COLA increase for education. Therefore the only new revenues received by community colleges was funding for growth. The District's allowable growth rate was 5.68%, but State funding discounted for growth to 44.2%, meaning that the District's target growth rate was estimated, at the time that is 2003-04 budget was adopted, to be 2.51%, or approximately $500,000. The District estimated that the cost of growth, i.e. instructional costs for additional sections, would be $300,000, leaving a balance of $200,000 in new revenues.

The District, however, was required during 2003 -04 to absorb unanticipated new expenditures which were not offset by new funds. These came principally from increases in employer costs for PERS, State Unemployment Insurance (SUI), and workers' compensation, which amounted in the aggregate to $829,571. In addition, step and longevity increases for all District employees, which were delayed but eventually paid, amounted to $410,186.[1] Thus, the new expenditures totaled $1,239,757, while new revenue (growth funds) were estimated at $500,000. As a result, the District made a number of mid-year budget reductions to absorb the increased expenditures.[2]

The cost of a 1% salary increase for all classified employees would be $92,383, and for all

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[1] The increases for the classified bargaining unit alone amounted to $152,875, which included $50,809 in previous benchmark increases, i.e. implementation of salary survey increases agreed to in 2001-02 and 2002-03 pursuant to section 3.6 of the collective bargaining agreement (see Dist. Facts #12, #15, and Exhibits 15,17).

[2] In post-hearing exchanges between the panel members, some additional information in terms of new revenue which became available to the District during 2003-04. In part, this information first came to light during the fact-finding hearing for the faculty unit, which took place after the classified factfinding hearing. In summary, the P2 report released by the Chancellor's office on June 28, 2004, showed growth revenue as $991,295. However, the District has represented that it will have to pay back $138,000 because it failed to achieve projected increases in FTES, and there were additional part-time faculty costs of $160,000. The net result, according to the District, is that there was approximately $176,000 in additional growth funds, over and above the $500,000 projected by the District in its budget deliberations and its presentation at the factfinding hearing.

The 2003-04 Prior Year Corrections form, dated February 19, 2004, also shows $210,000 in new Basic Skills revenue, which was not included by the District in its revenue projections at the hearing, but the District represents that amount is merely a component of the overall growth funds of $991,295.

The Union disputes the representations made by the District, contending that the entire amount of growth revenues shown on the P2 ($991,225) should be considered available, and that the District's claim that the it received only a net amount of $176,000 over and above the $500,000 should not be accepted. Given the fact that the hearing has been completed, it is not feasible to definitively resolve this dispute over how much additional revenue should be considered available. Since it is undisputed that there is $176,000 in new revenue above that projected at the hearing, this figure will be accepted for purposes of this report. The parties are encouraged to consult in good faith to resolve any further disputes over the amount of growth revenues.

employees (including faculty and management) it would be $311,996.

By Board policy, the District maintains a budget reserve of 6% of state and local revenues, which amounted to $2,510,430 for 2003-04. This reserve is greater than that required by the Chancellor's Office, which sets the required reserve at 5% of total general fund expenditures, which is equivalent to 5.46% of state and local revenues. The difference between the District's 6% reserve and the amount set by the Chancellor's office is approximately $225,940.[3]

There is considerable dispute between the parties regarding how to evaluate a pattern of the District's actual ending balance for any particular year exceeding the budgeted reserve based on the Board's 6% reserve policy. For 2002-03, the actual ending balance, which became the beginning balance for 2003-04, was $3,956,286 (or approximately 8.8% of General Fund revenues). However, the budgeted 6% reserve for 2003-03 was only $2,576,756. The budgeted reserve for 2003-04 was $2,510,430, and legally restricted funds for categorical funds and grants was $579,120, leaving, according to the Supplemental Data form (CCFS-311), an "uncommitted balance" of $866,736. According to the District, however, these funds were in fact committed: $203,298 to carryover of purchase orders for 2002-03; $12,621 to carryover of funds for self-supporting Institute for Professional Development; $197,441 to balance 2003-04 budget; and $456,376 as a contingency for property tax and enrollment fee shortfall and apportionment reduction for non-compliant concurrent enrollment.[4]

The Union contends, on the other hand, that there has been a pattern of ending balances

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[3] 6% : $2,510,430 = 5.46% ; x.

[4] According to the District, the shortfalls and apportionment reduction actually exceeded **the $456,376** contingency which had been budgeted.

exceeding the budgeted reserves in prior years as well, and that this pattern, when **viewed in light of** large interfund transfers from the General Fund to funds including the Capital Outlay **Projects Fund,** the Child Development Fund, and the Other Debt Service **Fund,** demonstrate **an intent to hide** revenues or to set priorities which fail to recognize the importance of providing **adequate and** competitive salaries and benefits for employees.

C. <u>The benchmark classification surveys.</u>

Pursuant to section 3.6 of the parties' collective bargaining agreement, **salary surveys are** conducted according to a schedule which each year involves certain segments of **the classifications** in the bargaining unit. The survey uses 18 single-campus districts with comparable **FTES according** 2000-01 figures. The median salaries according to the survey are then reviewed by the parties, **and** in prior years have been implemented on a staggered basis over a three-year period. **In 2003-04, the** amount allocated for implementation of classification studies from previous years **was** $50,**809.**[5]

The cost of implementing the 2003-04 survey would be $41,128. The District's **December** 11 proposal included implementation of the survey adjustments effective January 1, **2004, at a cost** during 2003-04 of $20,500, and subsequent annual cost of $41,000. The Union's **position is that the** survey should be **fully** implemented in 2003-04.

D. <u>Fringe benefits.</u>

Health and welfare benefits have been administered for **a** number of years in the District as a cafeteria plan, under which the District contributes annually a flat amount of $6,359 towards the cost of health benefits for each full time employee, and the employee has the option of signing **up for** several different levels of benefits. If the employee opts for benefits which cost less than the District's

[5] Dist. Facts #12, #15, and Exhibits 14, 17.

contribution, the balance is paid directly to the employee. If the employee opts for benefits which **are** more than the District's contribution, the employee is responsible for paying the **additional amount.** Part-time employees have a comparable plan, with the District's contribution set **at $3,179.50.**

There are approximately 189 full-time classified bargaining unit employees **enrolled in one of** the two medical plans provided by the District, and some are also enrolled in the **dental and vision** plans. Medical Plan A is more expensive than Plan E, and employees can sign **up in either plan for** one of three levels of coverage: family coverage, employee plus one, or employee only. **As it works** out currently, a full-time employee who signs up for either family coverage or employee plus **one,** along with dental and vision coverage, must pay out-of-pocket costs, while an employee **who** signs up for employee-only coverage receives money back. Thus, in practice, of the **189** classified employees, 56 (or 29.7%) have out-of-pocket costs ranging from $29.94 to $480.97 **monthly, while** 133 employees (or 70.3%) take as additional monthly income amounts ranging **from $104.03 to** $529.92. Of 14 part-time employees, 13 have out-of-pocket costs ranging from **$42.27 to $389.69.**

The District has calculated that the total amount that it contributes for health **benefits under** the current plan, including the amount paid directly to employees with single coverage, **would be** sufficient to fund full coverage for all employees currently paying out-of-pocket costs **if the plan were** changed to eliminate the "money-back" provision to employees with premiums below **the $6,359 cap.**

In addition, the money-back provision makes it difficult to compare the District's **health** benefit plan with other districts, and this is a point of major dispute between the parties. **The** District has provided **a** comparison with the same districts agreed upon for purposes of the **benchmark salary** survey. Of the 17 districts which provided data, the District ranked very low in terms of **maximum** contribution, but only three districts (Allan Hancock, Victor Valley, and San Luis **Obispo) include** a money back provision, and of those Allan Hancock has a three-tiered maximum **contribution for** single coverage, two-party coverage, and family coverage. Therefore, although **Allan Hancock has** a much higher maximum contribution rate ($11,911.80 for family coverage), the **amount of money** returned to the employee is much less, depending on the type of coverage provided, **and therefore** the average cost per employee is also much less than would appear from comparing **the maximum** contribution rates ($11,911.80 vs. $6,359). The Victor Valley plan, with its money-back **provision,** has an employer contribution rate of $8,100. The District contends that because of **the money-back** provision in its plan, it compares more favorably to other community college districts than is **apparent** from simply comparing the maximum contribution rates.

The Union has based its fringe benefit comparisons on a slightly different set **of** comparison districts, using more up-to-date FTES figures than those agreed to as a basis for the benchmark **salary** surveys. It has also provided **a** statewide comparison of benefits. Both of these comparisons show the District very near the bottom and well below the median in terms of annual district contribution per employee. According to the Union, its figures are based on the average amounts **paid for health** benefits in these districts.

There is a problem, however, in relying on the figures provided by either party **for purposes** of comparison, in that the figures provided in a number of cases are totally inconsistent. **For** instance, the Union has presented the average contribution for Cabrillo CCD as $12,171.20, while the District has presented the maximum contribution by that district as $10,928. Obviously, **the average** contribution can't be more than the maximum contribution. Similarly, the Union has **presented the** average contribution for Mt. San Jacinto CCD as $7,444.20 and that for Santa Clarita CCD as $11,599.50, while the District has presented the maximum contributions for those districts as **$6,661** and $6,490, respectively. It can't be determined at this stage what the explanation is for the disparities in the figures provided, but it is difficult to consider either party's comparisons as being completely reliable. On the whole, the District's point appears well-taken that the money-back provision in its plan makes it compare more favorably than would otherwise appear, but, nevertheless, the District's contribution rate is low, to an indeterminate degree, in comparison with other districts.

E. Salary comparisons.

As noted in the previous section, the parties have prepared comparisons of negotiated classified settlements based on slightly different sets of comparison districts. Nevertheless, both sets of comparisons show that there have been 0% negotiated settlements in 2003-04 in the majority of districts.[6] This is no doubt due to the 0% COLA increase provided in State funding. The Citrus CCD has provided fairly generous increases over the past three years (7%, 5%, 5%), but other increases have been modest, and as noted, most districts have provided 0% this year, and several of these (Allan Hancock, Mt. San Jacinto, Sequoias, Victor Valley, Antelope Valley) have provided no increase for the last two years.

The Union has provided comparisons showing this District as among the lowest districts in terms of salary increased compounded over the last three years. The COLA increase in funding for 2001-02 was 3.87%, and in 2002-03 it was 2%. The raises in the District during those years were 2.8% and 1% (not counting the increases based on the benchmark salary surveys).[7] In the Union's comparison, seven of the districts provided increases over those three years equal to or greater than

[6] There appears to be no dispute that Mira Costa CCD, which is included in both sets of comparison districts based on its comparable FTES, is distinguishable based on its funding as a Basic Aid district. Therefore, its 4-8% salary increases over the past three years will be considered anomalous.

[7] From the District's exhibits, it provided a 5.42% increase in 2000-01, when the State COLA was 4.17%.

the compounded COLA increase of 5.95%, while six of the districts, including **San Luis Obispo,** provided increases below the compounded COLA.[8] The Union also calculates **that if the District** were to provide a 2% increase for 2003-04, this would bring its compounded increase **for the three** years to 5.91%, virtually equal to the COLA increase for those years.[9]

The parties have provided additional comparisons. The District has provided **a** comparison showing that it was slightly above the median for 2002-03 when compared on the basis **of** const **per** unit of FTES for classified salaries, and that it was virtually equal to the median **for 2001-02. The** Union has provided a number of comparisons of individual job classifications, but these comparisons are not very useful since the benchmark salary survey procedure in section 3.6 of the collective bargaining agreement is the agreed-upon method for addressing any inequities in individual classifications.[10]

There are two principal facts in the parties' salary comparisons. First, the majority **of** districts have settled on the basis of a 0% increase for 2003-04 in view of the 0% increase in **the State COLA.** Second, San Luis Obispo is among a large group of districts which has not provided increases **over** the past three years equal to the increases in the State COLA. Although the District is **hardly unique** on this point, approximately half of the comparison districts have provided increases **over three years** equal to or greater than the compounded COLA increase.

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[8] See page 4.11 of Union exhibits. Mira Costa is disregarded for the reason stated in footnote **5. Ohlone is** shown in the Union's comparison as not having provided its settlement for 2003-04, but the District **shows Ohlone has** having settled for 0%.

[9] See page 4.12 of Union exhibits.

[10] The Union's classification comparisons do not show whether the wage rate for any classification **has been** adjusted, in whole or in part, pursuant to the benchmark survey procedure.

ANALYSIS

A. Cost of proposals.

The cost of a 1% salary increase for all classified employees would be $92,383, **and for all** employees (including faculty and management) it would be $311,996.

The cost of fully implementing the benchmark salary survey for 2003-04 **would be $41,000.** The cost of the District's proposal to implement the survey effective January 1, 2004 **would be half** of the total amount, or $20,500.

The cost of the Union's proposal to increase the fringe benefit cap **to** $7,842 **for employees** with family or two party coverage, while freezing the cap at $6,359 for employees **with single** coverage, would be $88,980, assuming that enrollments at the different levels of **coverage remained** the same as they were in 2003-04. Given the timing of this report, implementation of **any increase** for 2003-04 would involve retroactive payments to employees with out-of-pocket costs for **the year.**

B. Application of statutory criteria.

Under Government Code section 3548.2 the primary criteria for evaluating **the parties'** proposals, under the facts presented, are: (1) the interests and welfare of the public **and the financial** ability of the public schools; (2) comparison of wages and fringe benefits with employees **in** comparable districts; and (3) the Consumer Price Index for goods and services. A discussion **of these** criteria, not in the same order, follows.

Consumer Price Index. The applicable increase in the CPI (west urban) **was** 2.7%. **The** District argues that for the period from 2000 to 2003, it provided salary increases **exceeding both the CPI** and the State funded COLA increases, when step, longevity and previous benchmark increases are included. This argument requires brief comment. It is noted that the general salary increase **in**

2000-01 of 5.42% exceeded both the State COLA and the CPI, while the general increases of 2.8% and 1% in 2001-02 and 2002-03 were below both the State COLA and the CPI for those years. Overall, for those three years, the general salary increases fell behind the State COLA and the CPI.

The District's argument that increases based on step, longevity, and previous benchmark increases brought the total increases above the State COLA and CPI is problematical. While it is recognized that these increases represent real costs to the District, the fact is that they do not represent compensation to offset inflation. Step and longevity increases are designed as compensation for years of service and experience, and they are not relevant to whether employees should receive a general salary increase. The benchmark increases involve different considerations, in that they are designed to establish parity between individual classifications in this District and in other districts. The benchmark increases do bear on the statutory criterion of comparisons with employees in other districts, and they will be considered in that context below.

Overall, it cannot be considered that the District's salaries have kept pace with inflation over the past several years, and the fact is that there was a 2.7% increase in the CPI for the 2003-04 school year. Realistically, however, since the State funded COLA for that period of time was 0%, this criterion cannot carry the same weight as it otherwise would. The District cannot be required to keep pace with inflation if its funding does not. The CPI increase is a factor which must be considered, but it cannot be given determinative weight.

The District's financial ability. At the time of the factfinding hearing, the District based its presentation on the projection that in view of the 0% COLA increase, its only new revenues would be funding for growth in the amount of $500,000. That new funding was more than offset, in the District's view, by the normal costs of growth, by unanticipated increases in PERS, SUI and workers' compensation payments, and by payment of step, longevity and previously negotiated classified benchmark increases. Therefore, the District adopted mid-year budget reductions to absorb the increased expenditures.

The P2 report issued by the Chancellor's Office several days after the factfinding proceeding, however, showed additional growth revenue over the $500,000 that had been previously projected. The net amount of the new revenue, according to the District's calculations, was approximately $176,000.[11] Although the District would like to restore some of the previous cuts to the budget, it must be considered that its financial condition is somewhat improved over that presented at the time of the hearing.

The Union makes a number of arguments to support its position that the District's financial condition is better than it represents. First, the District's 6% reserve is greater than that required by the Chancellor's Office, which is effectively 5.46% of revenues, and that difference amounts to approximately $226,000. Also, the District's ending balance has generally exceeded the amount of its reserve, showing a pattern of overbudgeting and underspending. In addition, according to the Union, there has been a pattern of transfers out of the general fund into a variety of other funds which shows an intent on the part of the District to hide funds and to avoid paying much-needed salary and benefit increases.

In response to the Union's arguments, it has not been shown that the District has intentionally hidden funds to avoid increasing salaries and benefits. It would appear to be correct that the District follows conservative accounting practices which are appropriate for a publicly funded educational institution. The high ending balances are due in part to carryover of commitments and accounts

[11] **See fn. 2, *supra.***

payable incurred during the previous year. No evidence was presented to question the legitimacy of the interfund transfers. The budgeted reserves are higher than required, but they represent Board policy which cannot be lightly disregarded. In sum, the District's financial condition, while improved over the presentation during the factfinding hearing, remains marginal in terms of its ability to provide substantial wage and benefit increases. Again, the overriding factor in this conclusion is that there was no State-funded COLA in 2003-04.

Salary and benefit comparisons. The conclusions to be drawn from the parties' salary and benefit comparisons are discussed at some length above. In summary, with regard to salary it must be noted that because of the 0% increase in the State-funded COLA for 2003-04, a majority of comparison districts have settled on the basis of a 0% increase. The District's current offer is for a 0% general salary increase, but with the implementation of the benchmark salary survey effective January 1, 2004, at a cost of $20,500 for 2003-04 (equivalent to .25% general increase), and $41,000 in future years.

Over the last three years, the District has been among a substantial group of comparison districts which have not provided general increases equal to the increases in the State COLA. However, four years ago, there was a 5.42% increase which exceeded the State COLA. As discussed above, the District's contention that step and longevity increases should be included to demonstrate overall increases above the COLA over the last four years cannot be accepted. However, there is merit to the argument that the gradual implementation of the benchmark salary surveys in past years is relevant it terms of comparing salaries with other Districts. Overall, it must be concluded that the District has lagged somewhat behind the *average* salary increases in the last four years (more so in the last three years), but the record is less clear in terms of whether it is behind the *median.* San Luis

Obispo is grouped with a large number of districts that have not kept pace with inflation. While it is not doubted that employees are in need of a salary increase to keep pace with inflation, they do not fare too badly in comparative terms.

With regard to health benefits, the difficulty of comparing the District's plan, which requires additional payments by employees with two-party or family coverage, but which pays money back to employees with single coverage, has been discussed above, along with other problems in making reliable comparisons. In general, it appears that the District's contribution rate is somewhat below the average, although it cannot be reliably concluded that the rate is as far below the median as contended by the Union.

The real problem with the health benefit plan is with the structure of the benefits. Both parties recognize that there is an inequity in providing substantial cash payments to employees with single coverage, essentially supplementing their salary, while requiring employees with two party or family coverage to provide large out-of-pocket payments for their coverage. The District argues that if this "money-back" feature were eliminated, the total cost to cover the entire amount of the premiums for all employees would be equivalent to current cost, and that no increase in its contribution rate would be needed.

The Union, however, argues against the elimination the long-standing money-back feature as being warranted by past practice and agreement of the parties. Instead, it has proposed freezing the contribution rate for employees with single coverage, noting that with steeply rising insurance premiums the money-back feature will be eliminated in a very few years. At the same time the Union has proposed increasing the District's contribution for employees with family or two-party coverage to $7,842, essentially the cost of two-party coverage, at a cost of $88,980, roughly equivalent to a

1% salary increase. By analogy, an increase of $500 in the two-party and family coverage cap; rather than $1,483 as proposed by the Union, would amount to additional costs of approximately $30,000.

Conclusions.

1. The applicable CPI shows 2.7% inflation for 2003-04, but in view of the 0% State-funded COLA, the increase in CPI cannot be given determinative weight.

2. The District's financial condition has improved over that projected at the time of the hearing, in that it has received $176,000 in additional growth funding. However, its overall financial condition remains marginal.

3. In terms of salary comparisons, most districts have settled for 0% general increases in 2003-04, in view of the fact that there has been no State-funded COLA. The District is among a large group of districts which have not provided increases equivalent to inflation or the State-funded COLAs for the past three or four years. The series of benchmark salary increases during this time has improved the District's relative position to limited extent. While its average salary increases have been low, it is near the median.

With regard to health benefits, the District's contribution rate is somewhat below the median, but the overriding concern relates to the inequitable structure of the plan.

RECOMMENDATIONS

1. The District should provide a 1% general salary increase for classified employees, effective January 1, 2004. (Cost: $46,000 for classified employees; $156,000 if extended to all employees.)

2. The 2003-04 benchmark salary survey should be implemented effective January 1, 2004. (Cost: $20,500 in 2003-04; $41,000 in future years.)

3. The health benefit contribution for employees with employee plus one and family coverage should be increased by the annual amount of $250 for 2003-04. The contribution for employees with single coverage should be unchanged. (Cost: Approximately $15,000 for 2003-04.)

Respectfully submitted:

8/31/04

Frank Silver, Chair | Date 8/31/04

(See concurring opinion)

Terry Elverum | Concur/dissent | Date

Union-Appointed Member

(See concurring/dissenting opinion)

Robert Sammis | Concur/dissent | Date

District-Appointed Member

August 30, 2004

Response to Factfinding Panel Report: PERB No. LA-IM-3218-E
Cuesta College Classified United Employees, CFT, AFT Local 4606 and the
San Luis Obispo County Community College District

By Terry Elverum, Union-appointed Factfinding Member

In response to the report of the factfinding panel for Cuesta College's classified bargaining unit, I would like to share my following thoughts.

I concur with the recommendations provided in the final report of the factfinding panel and it is my sincere hope that this report is accepted as a fair settlement to both the classified employees and district administration of Cuesta College.

The panel carefully considered all arguments and evidence presented during the hearing and in subsequent information requests and clarifications by both parties. While disputes to the accuracy or completeness of information considered surrounding comparable district salaries, health benefit contributions, growth estimates and general apportionment adjustments linger amongst the parties, the overall basis for the recommendations is outlined in the final report issued by the panel and I concur.

Ideally, such disputes can and should be addressed in a more comprehensive manner that includes verifiable data that is collected and examined by both parties. Specifically, criteria could be mutually established in order to make fair and justifiable comparisons prior to exhausting all avenues available through the collective bargaining process.

In regard to the current case before this panel, I agree with the following recommendations for Cuesta College's classified employee bargaining unit:

1. The District should provide a 1% general salary increase for classified employees effective January 1, 2004.

2. The 2003-04 benchmark salary survey should be implemented effective January 1, 2004.

3. The health benefit contribution for employees with employee plus one and family coverage should be increased by the annual amount of $250 for 2003-04. The contribution for employees with single coverage should be unchanged.

Sincerely,
Terry Elverum

Concurring/Dissenting Opinion of District appointed panel member, Robert Sammis:

The Chair's opinion provides a well thought out analysis of the issues and **correctly notes** "... [t]he District's financial condition, while improved over the presentation **during the** factfinding hearing, remains marginal in terms of its ability to provide **substantial wage** and benefit increases. Again, the overriding factor in this conclusion is that **there was no** State-funded COLA in 2003-04." (pages 15-16).

The Chair sets forth three conclusions in his report, all of which I concur. In summary they state, 1) the increase in the CPI cannot be given determinative weight; 2) **the** District has received an additional $176,000 in additional growth funding over what was projected at the time of the hearing and: 3) While the District's average salary increases have been low, it is near the median. And with respect to the health benefit issue, **that** while the District's contribution rate is somewhat below the median, "the overriding concern relates to the inequitable structure of the plan."

However, the Chair's analysis and conclusions do not support the recommendations **the** Chair sets forth at page 19 of his opinion. There are no facts to warrant any ongoing financial commitment in terms of salary and/or benefits for the 2003-04 fiscal year. It **is** well understood by the parties and the public that over the last two years, California **has** faced an unprecedented financial crisis. This overall State financial crisis translated **into** devastating cuts for community colleges. The District was forced to make significant mid-year reductions in 2002-03 and for the 2003-04 fiscal year, the year in question **in** this factfinding report. Specifically, the District implemented a reduction of management, confidential and classified positions as well as reducing expenditures in areas throughout its budget. The small increase in growth dollars ($176,000) that the District has received should be applied to help restore some of these reductions. This additional growth money cannot be relied upon for future years and, thus, should not be used to fund any ongoing salary and/or benefit costs. The Chair's recommendation of a 1% salary increase effective January 2004 and implementation the 2003-04 benchmark study effective January 2004 fails to ignore the ongoing financial impact of providing an increase to the salary schedule. In addition, the Chair's recommendation that the District's health benefit contribution for employees who enroll in an employee plus one or family health plan should be increased by $250 for the 2003-04 fiscal year, ignores the Chair's own conclusion, "With regard to health benefits, the District's contribution rate is somewhat below the median, but the overriding concern relates to the inequitable structure of the plan." The chair provides no recommendation whatsoever in terms of the "inequitable" structure of the plan.

Based on the Chair's analysis and conclusions and the need for the District to limit additional expenditures while it attempts to regain its budgetary strength after years of financial disaster supports the following recommendation:

1. For the 2003-04 fiscal year, the District should provide a .5% off salary schedule bonus for bargaining unit employees.

2. The benchmark salary survey should be deferred to the 2004-05 fiscal **year and** should be reexamined during the parties' upcoming negotiations for **a** successor collective bargaining agreement.

3. For the 2003-04 fiscal year, the District's contribution towards the **health plans** should remain unchanged and in the upcoming negotiations for **a** successor collective bargaining agreement, the parties should negotiate changes to **the** inequitable structure by ending the current provision that provides a cash **value to** employees who enroll in an employee only plan.

Respectfully submitted:

August 30, 2004

Robert L. Sammis

District appointed member